

CIVIL DOCKET NO.: 5:08CV110-V

ORDER

¹ Ordinarily, Plaintiff's Answer to Defendants' Amended Counterclaims would have been due within twenty-one (21) days of service of the pleading including the counterclaim. FED. R. CIV. P. 12(a)(1)(B). Here, given Plaintiff's Motion to Dismiss and Defendants' subsequent Voluntary Dismissal

or requested entry of default / default judgment on its remaining Counterclaims.²

Consequently, joinder of the issues has not occurred, the parties have not conducted their Initial Attorneys' Conference, filed their Certification of the same, participated in an Initial Pretrial Conference, or even begun to engage in the discovery process.³ See L.Civ.R. 16.1(D) and (E)(2)(2009).

IT IS, THEREFORE, ORDERED that the parties are hereby directed to file a Status Report **on or before Monday, April 11, 2011.**

IT IS FURTHER ORDERED that **NOTICE IS HEREBY GIVEN** that the parties' respective claims / counterclaims are subject to dismissal for failure to prosecute. See FED. R. CIV. P. 41(b) and (c).

Signed: March 29, 2011



Richard L. Voorhees
United States District Judge



of certain Counterclaims, voluntary dismissal – which alleviated the need for the Court to decide the motion – should have triggered Plaintiff's response period. FED. R. CIV. P. 12(a)(4).

² In June 2009, Defendant voluntarily dismissed its First, Second, Third, Fourth, Fifth, Ninth, Tenth, and Eleventh Counterclaims without prejudice in response to Plaintiff's Motion to Dismiss Counterclaims. (Documents ##12-14) Defendants' remaining Counterclaims include: 2 violations of N.C. Gen. Stat. §75-1.1 (Sixth / Twelfth), 2 claims of Fraud (Seventh / Thirteenth), 2 claims of Tortious Interference with Contractual Relations (Eighth / Fourteenth), and 1 claim of Tortious Interference with Prospective Economic Advantage (Fifteenth).

³ Presumably, the parties have now settled this matter without the need for further court intervention, in which case, a Stipulation of Dismissal should be filed by April 11, 2011 as well.